

United States District Court  
District Of Oregon

RECEIVED MAR 05 2010 USM

Bobby Shane CHARLTON

VS

Oregon Department of  
Correction Et Al,

Case No: 09-CV-1246-TC

Plaintiff Motion For  
Reconsideration On  
Motion For Request  
For appointment of Counsel.  
28 U.S.C.S. § 1915 (d)

1

A federal Court has a duty under  
28 USCS § 1915(d) to assist a Party  
in obtaining counsel willing to serve  
for little or no compensation.

The court does not discharge this  
duty if it makes no attempt to  
request the assistance of volunteer  
counsel or, where the record is not  
otherwise clear, explain its failure  
to do so.

2

Plaintiff understands that there is no  
constitutional right to counsel in

a civil case. He understand that the Courts can not force An Attorney to take a case in CIVIL Matter. However, This does Not discharge The courts duty to attempt to request assistance of a counsel. ~~or course~~, if the claimant meets the qualifications.

3

The courts must adequately determine if the claimant meets these qualifications. They must consider the situation and fact that is laid before them and give just Reasonening why the court will not, or does not, at least put forth the duty to attempt to request assistance of a counsel.

See United State of America v. 30.64 Acres of Land

4

Claimant does not feel the request made for Counsel adequately was adequately reviewed and taken into consideration, for the court did not

address to any of the issues the plaintiff brought up and showed showed facts of there-of. The courts didn't address the facts.

5

Claimant understands that only under exceptional circumstances they will (courts) request for counselor under 28 USCS § 1915(d)

Claimant feels he meets these requirements.

### Facts Of Situation

1  
Claimant has stated a claim. Or in the courts opinion, May have stated a claim well enough to process the lawsuit, under the 8th and 14th amendment in his suit.

2  
Claimant is in I.M.U (intensive Management Unit).

Here he is locked down in a single Man cell all day and night. He

is only <sup>allow'd</sup> stand out of cell for a 30 minute yard, and 10 To 15 minute shower.

Because of this, Claimant, has very very little, to No access to law library and or legal help. Which he has shown and explained in his First, and amended request for Counselor

3

Because of claimant low I.Q and education and the situation he is in, he is unable to adequately articulate his claim in the light of the complexity the legal issues involved

In addition to this, claimant does not have the ability to investigate the facts of the case the likelihood of conflicting testimony requiring skilled cross-examination, the litigant's ability to adequately present the case.

Again see; United States V 30.64 Acres of land.

4

4

Claimant is ~~indeed~~ indigent. Which has already been establish.

Request

1

Claimant comes before the court. to Please ask that they re-review his request for counsel. Please review his fist request and the amendment thereof.

I ask the courts to please put forth some help in maybe finding me an Attorney to take my case.

2.

I have tried writing a few Attorneys Myself so ~~FAR~~. But please keep in mind, that part of my suit is on the fact that O.D.O.C. Will not allow me legal library envelopes to send to any Attorney at all.

I am indigent. I am only allowed 5 basic envelope a Month. which only hold 5 sheets of paper. So I can't really send out

to Many Letter a Month, and I  
Really can't send much to the Attorney  
as far as proof, or information.

See exhibit (V) that  
was sent with first suit. Also see  
enclosed Proof  
Meeting Requirement.

Claimant feels that because he is in  
prison on lockdown with no access  
to lawlibrary other then by Kyte.  
And the Legal Aids thereof, have  
for the most part refused me help.  
"They said,"they don't do civil matters."  
See returned Kytes that was sent  
with first request, for request of  
Court appointed ~~COR~~ counselor, to  
show proof of this. And along with  
his low IQ and medical problem/injury  
due to the Matter <sup>in</sup> of the lawsuit, He  
feels he meets the exceptional circum-  
stances that is required. for the court to  
atleast try and help find ~~a~~ a counselor

Bobby Charlton  
Bobby CHARLTON  
11102064

"See Pg # 7 For  
Additional Info"

Pg 6

Not Also See Enclosed Proof

Oppenbach

One last Point that I forgot to bring up:

"Was; Doc official has out right refused me any help in a investigation and finding out and giving me the name of a witness that I asked for . Even though the law says that they are suppose to do everything they can assisting in obtaining ~~ever~~ evidence and interviewing with witnesses & for Inmate

See: Lee V Coughlin 902 F. Supp 424  
( S.D.N.Y 1995 )

See: Patterson V. Coughlin 905 F.2d  
564 2nd Cir 1990

See: Broussard V. Johnson 918 F. supp  
1040 ( E.D Tx 1986 )

See: Forbes V Trigg , 976 F.2d 308  
( 7th Cir 1992 )

Bobby Charlton  
Pr-se Bobby CHARLTON  
11102064

Pg<sup>#</sup>7

**OREGON DEPARTMENT OF CORRECTIONS**  
**INMATE COMMUNICATION FORM**

TO: \_\_\_\_\_ Date: \_\_\_\_\_  
State your issue in detail: *These next page are just copied  
of some of the exhibit that I sent in  
with first suit that helps prove the  
allegations I have made in this  
Motion for reconsideration on my  
Motion for Request of Counselor*

Inmate Committed Name (first middle last)	SID#	Housing Unit

**Response/Action Taken:** \_\_\_\_\_

Date Received: \_\_\_\_\_ Referred To\*: \_\_\_\_\_

Date Answered: \_\_\_\_\_ Signature of Staff Member: \_\_\_\_\_  
If forwarded, please notify the inmate



STATE OF OREGON  
DEPARTMENT OF CORRECTIONS  
EASTERN OREGON CORRECTIONAL INSTITUTION  
PENDLETON, OREGON 97801

Exhibit H

May 7, 2009

To: Bobby Charlton, #11102064 [IMA26]  
Oregon State Penitentiary  
2605 State Street  
Salem, OR 97310-0505

*[Signature]*  
From: D. Harder, Supervising Executive Assistant

Re: Request for Information

This is in response to your Inmate Communication to Superintendent Rick Coursey, dated April 2, 2009 wherein you request that the name of a permanently paralyzed inmate that was assigned to the infirmary at TRCI while you were there. The superintendent has asked me to review the request and provide you with a response on his behalf.

It is not appropriate for me to research for you who the subject inmate might be and then provide you with his name directly to you. You state that this is part of a process that will lead to a law suit against TRCI and the medical care and treatment at that facility. You might consider developing your case by the merits that you offer and focus on any witnesses later. However, I can not provide you directly the information that you request.

**Your request to have this information researched and provided to you is therefore denied.**

Cc: R. Coursey, Superintendent  
File

*This is a returned response to a letter I wrote asking for help from the Superintendent to get the name of a witness and proper investigation. Which they flat out denied. Even though Due Process laws makes it plain and clear that they are suppose to do everything they can to make sure I get adequate help in an investigation and find witness that are request*

## OREGON DEPARTMENT OF CORRECTIONS

## INMATE COMMUNICATION FORM

TO: Legal Library Date: 3.30.09

State your issue in detail: I need a big legal envelope  
To mail some legal papers to:

Richard L Cowan

Attorney At Law

PO BOX 965

Salem OR 97308-0965

L.

I am indigent but I must mail some legal  
papers to my attorney ASAP.

Thank you

↓

Inmate Committed Name (first middle last)	SID#	Housing Unit
Bobby CHARLTON	11102064	DSU 36

Response/Action Taken: Indigent inmates cannot use legal envelopes  
to correspond with attorneys per OAR 291-139-0040 (5) (a)  
(Legal Affairs, inmate)  
Kite Canteen to request indigent envelopes.

Date Received: \_\_\_\_\_ Referred To\*: \_\_\_\_\_

Date Answered: 3/31 Signature of Staff Member: Hascall

\*If forwarded, please notify the inmate

**OREGON DEPARTMENT OF CORRECTIONS**  
**INMATE COMMUNICATION FORM**

**TO:** \_\_\_\_\_ **Date:** \_\_\_\_\_

State your issue in detail: \_\_\_\_\_

*See Response on Page 5 Of This  
Type to the Law Library:  
It is where they tell me they dont  
do lawsuits*

Inmate Committed Name (first middle last)	SID#	Housing Unit

Response/Action Taken: \_\_\_\_\_

*[Handwritten signature]*

Date Received: \_\_\_\_\_ Referred To\*: \_\_\_\_\_

Date Answered: \_\_\_\_\_ Signature of Staff Member: \_\_\_\_\_  
If forwarded, please notify the inmate

**OREGON DEPARTMENT OF CORRECTIONS**  
**INMATE COMMUNICATION FORM**

TO: OSPLaw LibraryDate: 5-1-09

State your issue in detail: I just got here from ECCI. I am in the middle of a medical malpractice / Deliberate indifference complaint against TRCI and I am looking for info. that may help me.

I keep kept trying to get medical help at TRCI. I was having really bad muscle spasms in my shoulder that fastly grew into sharp pain in and down my arm. And that turned into numbness and tingling in my arm and hand.

I signed up for sick call time and time again complaining of the pain and the symptoms I was having. I seen the Doctor 3 Times. But he would do nothing. He told me that it was just muscle spasms if wont kill me. I kept telling

Inmate Committed Name (first middle last)

SID#

Housing Unit

1102069IMU 26ABobby CHARLTON

Response/ACTION Taken:

him that there was something really wrong and that I needed help. The pain got so bad I started throwing up. This lasted for about 2 days before they finally gave me a shot to stop me from throwing up.

Anyways to make a long story short. I knew something was wrong and I could not get no help there at TRCI. So I did what I had to do to get out of there. Yes I did file a

RECD MAY 04 2009

Referred To\*:

Date Received:

Date Answered:

If forwarded, please notify the inmate

Signature of Staff Member:

CD 214 (12/04) 768

**OREGON DEPARTMENT OF CORRECTIONS**  
**INMATE COMMUNICATION FORM**

TO:

Date:

State your issue in detail:

grievance on the Doctor and on  
 a Nurse and I wrote a Rite ~~Petition~~ to  
 the medical supervisor before I did what  
 I did. And yes, that is why I am in IMU.  
 But I got out of TRCI. They took me  
 from Seg to Seg. When I got to EO. I  
 signed up for sick call. I got into see  
 the Doctor. I told him the same thing that  
 I told TRCI medical staff and Doctor  
 time and time again. The Doctor at EO  
 knew what was wrong before I  
 was half way done telling him, he told  
 me, "I am no expert but do everything you

Inmate Committed Name (first middle last)

SID#

Housing Unit

Charlton

Response/Action Taken:

just told me is text back for  
 damage nerve in and around your neck/back  
 around C6 - C7. He said we got to get  
 you in for an MRI.

So I went in for an MRI. The next  
 thing I know I am being singled ~~to~~ called.  
 The Doctor come to see me and said that  
 I was facing paralyzing damage. That I  
 had swelling to the spinecord and that

REC'D MAY 04 2009

Date Received:

Referred To\*:

Date Answered:

Signature of Staff Member:

If forwarded, please notify the inmate

CD 214 (12/04)

## OREGON DEPARTMENT OF CORRECTIONS

3

## INMATE COMMUNICATION FORM

TO: \_\_\_\_\_ Date: \_\_\_\_\_

State your issue in detail: If I got hit just right I could be paralyzed. They said you are going to have to have surgery and fast.

So I went and in for surgery. Then I had to stay in the infirmary for 6 weeks under strict rules not to do anything. Not even make my bed.

When I got I was told that I now have nerve damage and muscle damage from the muscle spasms. They said it may or may not fix themselves. They said it all depends on how long they went under damaging conditions before I got surgery. Well I went almost 6 months before

Inmate Committed Name (first middle last)

SID#

Housing Unit

Charlton

Response/Action Taken:

I got help. I went through some of the worst pain I have ever went through in my life.

When I got out of the infirmary and was able to write I wrote a new grievance or I should say grievances. I plan on taking this as far as it needs to be to get what I got comin. I have a copy of my medical progress notes and that prove everything

Date Received: ECI MAY 04 2009Referred To\*: \_\_\_\_\_ rgf

Date Answered: \_\_\_\_\_ Signature of Staff Member: \_\_\_\_\_

'If forwarded, please notify the inmate'

## OREGON DEPARTMENT OF CORRECTIONS

## INMATE COMMUNICATION FORM

TO: \_\_\_\_\_ Date: \_\_\_\_\_

State your issue in detail: I just told you. So I need all the help I can get.

I don't really know what I'm doing but I'm trying to learn what I need to do. I am writing the ACCU to see if I can get any help from them. I know I have a heads down win case if I can get the proper proper help.

I am still in the grievance process. I just sent in one grievance appeal a few days ago. There is like 4 more grievance yet to come back. I have even grieved the grievance coordinator at TRCI for not processing my grievance under Paul's reasoning -

Inmate Committed Name (first middle last)	SID#	Housing Unit
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Charlton

Response/Action Taken: And yes they were really blatantly bogus reasoning that can be no question that they were just a flat out denial of my Due Process rights.

The Doctor at TRCI has some kind of medical condition. I thought the dude was on Meth, but I am told he has some kind of a Nerve disease that effects him in the same way that you would swear he was on

Date Received: REC'D MAY 04 2009 Referred To\*: \_\_\_\_\_

Date Answered: \_\_\_\_\_ Signature of Staff Member: \_\_\_\_\_  
 If forwarded, please notify the inmate 798

## OREGON DEPARTMENT OF CORRECTIONS

5

## INMATE COMMUNICATION FORM

TO: \_\_\_\_\_ Date: \_\_\_\_\_

State your issue in detail: *Meth. And then let this dude run around and play Doctor.*

*Also, I met another dude over there in the infirmary that ~~said~~ told me that he was going through the same thing that I was. And like me, tried everything to get medical help by the same Doctor. But He/they did nothing. This other man now sits in a wheel chair. He didn't make it out. This is ~~for~~ the man that told me, "You need to get out of here. Do what ever you got to do before it is to late." And so I did. I got out of TRCI. It <sup>cost</sup> me a THU shot and maybe new charges but at least I*

Inmate Committed Name (first middle last)	SH#	Housing Unit
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*Charlton*

Response/Action Taken: *won't be paralyzed. I've been trying to get that other man's name and info but they won't give it to me. I got a Kite back from from a Cents Counselor saying that they are nervous about this law suit and don't want to give me any info.*

*So Yeah, I need help; So can you get me started in the right direction? Thank You*

*See the Torts Book Manual for info.  
we don't do lawsuits.*

Date Received: REC'D MAY 04 2009 Referred To\*: LA #2

Date Answered: 6 May 09 Signature of Staff Member: MDavidson

If forwarded, please notify the inmate

**CERTIFICATE OF TRUE COPY**

I Bobby CHARLTON, do swear that the document(s) listed below are a true and complete copy of the original filed with the court.

Case #09-CV-1246-TC

Motion For Reconsideration

On Motions For Request for  
OF Counselor.

Dated this 1 day of March, 20 10

Bobby Charlton

(Signature)

Print Name: Bobby CHARLTON

S.I.D. No. 1102064

OSP 2605 State St  
Salem OR 97310

CERTIFICATE OF SERVICE

CASE NAME: Bobby CHARLTON v. O.D.O.C et al

CASE NUMBER: (if known) 09-CV-1246-TC

COMES NOW, Bobby Charlton, and certifies the following:

That I am incarcerated by the Oregon Department of Corrections at OSP. 2605  
State St. Salem Ore 97310.

That on the 7 day of March, 20 10, I personally placed in the  
Correctional Institution's mailing service A TRUE COPY of the following:

A Motion for Second Reconsideration on  
Motions on Request of Counselor

I placed the above in a securely enclosed, postage prepaid envelope, to the person(s)  
named at the places addressed below:

Clerk of Court Wayne L Morse  
United State Courthouse  
405 Eighth Avenue  
Suite 2100  
Eugene, Oregon 97401

Bobby Charlton  
(Signature)

Print Name Bobby CHARLTON  
S.I.D. No.: 11102064  
OSP. 2605 State St  
Salem OR 97310

(OSP 140)